IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CIVIL REVISION APPLICATION NO.746 OF 1998

AND WITH

CIVIL REVISION APPLICATION NO.748 OF 1998

Sou.Madhuri Manik Govardhan
age major, occu.Business,
R/o.Solapur. Petitioner
(Orig. D.H.)

vs.

1. M/s.Govardhan Enterprises
a partnership firm, having
office, at 418, Chati Galli,
Solapur.

2. Vivek Chandrakant Govardhan
Age 37 yrs., occ: Business,
R/o. M.H.No.418, Chati Galli,
Solapur.

3. Vikas Chandrakant Govardhan
Age 35 yrs., occu: Business,
R/o.Govardhan Cloth Stores
Kasar Galli, Vairag, Tal.Barshi,
Dist: Solapur.

4. Vinod Chandrakant Govardhan,
Age 33 yrs., occ:Business,
R/o. Jeweller Shop, Near Gandhi
Chowk, Vairag, Tal.Barshi, Dist.
Solapur.

5. Vinay Chandrkant Govardhan
Age 30 yrs. occ: Business,
R/o.Govardhan Cloth Stores,
Kasar Galli, Vairag, Tal.Barshi,
Dist. Solapur.

6. Chandrakant Govind Govardhan
Age 65 yrs., occ: Agriculture and
Business, R/o. Jewellers shop,
Near Gandhi Chowk, Vairag, Tal.
Barshi, Dist. Solapur. Respondents
(Nos. 1 to 5 -
orig. J.Ds.
No. 6-orig.
Deft. No.6).

CORAM : B.H. MARLAPALLE,J.

DATED : 6th September 2005

ORAL JUDGEMENT.

Both these revision applications are between the same parties and the orders impugned have been passed in Special Darkhast no.260/1996 and 258/96 respectively. Hence these revision applications are being disposed off by this common order.

2. The petitioner who has filed both these petitions had filed Special Darkhast Nos. 258/96 and 260/96. Whereas Special Darkhast Nos.218/96 and 282/96 were filed by the respondent 2 and 3 respectively. It is informed that respondent no.2-Vivek s/o. Chandrakant Govardhan died on 3rd May 2001 and respondent no.6 Chandrakant Govind Govardhan died on 26.8.1999. Vivek was partner of M/s.Govardhan Enterprises, whereas Chandrakant was partner of M/s.Pandharinath Appaji Govardhan. The Special Darkhast filed by the petitioner have been disposed off by the impugned orders dated 17.2.1998 holding that both the Darkhasts were fully satisfied by adjusting the decretal amount against the decretal amount covered by the Special Darkhast Nos. 281/96 and 282/96. If the petitioners revisions are allowed, Special Darkhast Nos.258 and 260 of 1996 filed

by them would be restored to the file the executing Court and, therefore, the said revision applications cannot be entertained. This view is supported by a decision of the Supreme Court in the case of Shivshakti Co-op. Housing Society, Nagpur v. M/s.Swaraj Developers & ors., A.I.R.2003 S.C.2434. In paragraph 32 of the said decision, Their Lordships observed thus:

> " A plain reading of Section 115 as it stands makes it clear that the stress is on the question whether the order in favour of the party applying for revision would have given finality to the suit or other proceeding. If the answer is 'yes', then the revision is maintainable. But on the contrary, if the answer is 'no', then the revision is not maintainable."

3. Both the revisions were admitted and interim relief in terms of prayer (c) was granted by an order dated 23.7.1998. The said order passed by this Court on the impugned order has operated for the last about 7 years. Mr.Godbole, the learned counsel for the petitioner, therefore, prayed that the stay be continued for some time so that the petitioner institutes other appropriate proceedings as per the permissible law against the impugned orders. This request made is reasonable.

4. The revision applications are, therefore, disposed off as not maintainable and with liberty to the petitioners to take out other appropriate proceedings

that may be permissible in law against the impugned orders. If such proceedings are instituted within a period of six weeks from today, the stay order granted by this Court will continue to operate for six weeks.

5. Rule is discharged. No order as to costs.

(B.H. MARLAPALLE,J.)